

SENATE BILL REPORT

SB 6411

As Reported By Senate Committee On:
Energy, Technology & Telecommunications, February 3, 2000

Title: An act relating to studying the energy facility siting process.

Brief Description: Studying the energy facility siting process.

Sponsors: Senators Spanel, Gardner, Brown, Fairley, Franklin, B. Sheldon, Shin, Kline, Patterson, Haugen, Kohl-Welles, Costa, Thibaudeau, Prentice, Fraser and Goings.

Brief History:

Committee Activity: Energy, Technology & Telecommunications: 1/25/2000, 2/3/2000 [DPS, DNP].

SENATE COMMITTEE ON ENERGY, TECHNOLOGY & TELECOMMUNICATIONS

Majority Report: That Substitute Senate Bill No. 6411 be substituted therefor, and the substitute bill do pass.

Signed by Senators Brown, Chair; Goings, Vice Chair; Fairley and Fraser.

Minority Report: Do not pass.

Signed by Senator Hochstatter.

Staff: Andrea McNamara (786-7483)

Background: The Energy Facility Site Evaluation Council (EFSEC) was created by the Legislature in the 1970's as the centralized state entity responsible for siting and monitoring large energy facilities.

Applications for siting energy facilities through the EFSEC process generally involve five steps: (1) a State Environmental Policy Act (SEPA) review; (2) review for consistency with applicable local land use ordinances, development and comprehensive plans; (3) a formal adjudication on all issues related to the project; (4) certain air and water pollution discharge permitting reviews as delegated by the U.S. Environmental Protection Agency; and (5) a recommendation to the Governor who then decides whether to accept, reject, or remand the application.

Throughout its history, EFSEC has undergone periodic review and changes. The last comprehensive review of EFSEC occurred in 1993 at the direction of the Legislature. Lack of consensus among members of the task force, combined with a general lack of public interest in energy siting at the time, resulted in a divided report with limited recommendations and little legislative response.

EFSEC has also initiated its own internal reviews, most recently adopting some changes last year to its policies regarding sequencing of the environmental review and adjudicative phases of its proceedings.

The Governor's Fuel Accident Prevention and Response Team, formed after the Bellingham pipeline explosion in June of 1999, recently recommended the formation of a task force to study energy facility siting issues. The Governor endorsed the recommendation and directed EFSEC to work with the Legislature in forming and conducting a comprehensive review of the state's energy siting policies.

Summary of Substitute Bill: A Joint Legislative Task Force on Energy Facility Siting Reform is created consisting of eight voting members and eight nonvoting members. Voting members are legislators: two from each party from both the Senate and the House of Representatives, representing committees with jurisdiction over energy, environment/ecology, and growth management/siting issues. The chair of the task force is selected by its members. Nonvoting members are stakeholders selected by the director of the Department of Community, Trade, and Economic Development (CTED) to represent designated interests.

CTED is also directed to provide administrative and professional support and to hire an independent facilitator to assist the task force reach resolution of the assigned issues.

The task force is charged with reviewing current siting statutes for the purpose of recommending statutory changes to modernize the siting process in response to regulatory, environmental, technological, and economic changes affecting siting decisions.

Ten specific issue areas are to be addressed by the task force, including the jurisdiction and membership of EFSEC, its procedures; scope of preemption of proprietary and regulatory functions of local governments and other state agencies; local government participation; standards and processes for determining the need for proposed projects; the role of the Counsel for Environment; funding and related costs of participating in the process; monitoring and oversight of certified facilities; and facilities on public lands.

The task force must convene by April 10, 2000, and its report and recommendations are due to the Legislature by December 1, 2000. The task force expires June 30, 2001.

Applications for linear facilities made between January 1, 2000, and August 1, 2001, do not necessarily vest at time of filing. These applications will vest to standards or requirements in effect on August 1, 2001, or upon certification of the project, whichever comes first.

Substitute Bill Compared to Original Bill: The substitute adds eight nonvoting members selected by the director of CTED from designated stakeholder groups to serve with the eight legislators on the joint task force. The substitute also requires the task force to convene no later than April 10, 2000, and applies an emergency clause to the bill. The substitute directs CTED to provide administrative and professional support and hire an independent facilitator. The vesting provision is narrowed by the substitute so as to apply only to linear facilities (pipelines). References to EFSEC are replaced in the substitute with references to a "state siting authority."

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony For: The need for a comprehensive review of state siting policies and procedures has been clear for several years, but recent events make the timing this year right. The areas identified in the bill are appropriate and inclusive of the issues and concerns raised by all interested parties.

Testimony Against (original bill): The bill should include a formal role for the executive branch and other stakeholders. The scope of the study may be too ambitious and should be done in phases. The vesting provision effectively places a moratorium on applications which is unfair to those companies that have made significant preliminary investments in the pre-application process.

Testified: PRO: Deborah Ross, EFSEC; Donna M. Ewing, LWVWA; Carol Jolly, Governor's Office; Danielle Dixon, NW Energy Coalition; Dave Stewart-Smith, Oregon EFSC; Collins Sprague, Avista Corp. (concerns); Erick Espenhorst, Friends of the Earth.